

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CHARLES M. EVERETT,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 16-CV-648-SMY-DGW
)	
DISTRICT JUDGE HERNDON,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff’s Motion for Leave to Appeal *in forma pauperis* (“IFP”) (Doc. 11). A federal court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(1) & (3); Fed. R. App. P. 24(a)(3)(A). A frivolous appeal cannot be made in good faith. *Lee v. Clinton*, 209 F.3d 1025, 1026-27 (7th Cir. 2000). The test for determining if an appeal is in good faith and not frivolous is whether any of the legal points are reasonably arguable on their merits. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (citing *Anders v. California*, 386 U.S. 738 (1967)); *Walker v. O’Brien*, 216 F.3d 626, 632 (7th Cir. 2000).

The Court has no doubt that Plaintiff is indigent. However, the appeal is clearly frivolous. As an initial matter, Plaintiff’s Notice of Appeal (Doc. 10) refers to the undersigned as “Defendant” when the only named defendant in this action is “District Judge Herndon”. The undersigned is not a party to this litigation. The Notice is nothing more than a mish-mash of rambling and incoherent facts from which it is impossible to even discern what Plaintiff is seeking to appeal. It is simply incomprehensible and cannot be taken in good faith. Accordingly, Plaintiff’s Motion for Leave to Appeal *in forma pauperis* (Doc. 11) is **DENIED**.

Moreover, according to 28 U.S.C. §1915(e)(2), the Court "shall dismiss the case at any time if the court determines that...the action...frivolous or malicious" or "fails to state a claim on which relief may be granted..." A claim may be dismissed as frivolous, under the IFP statute, when the claim's factual contentions are clearly baseless or when the claim is based on an indisputably meritless legal theory. *Wemple v. All Illinois Judicial Circuits*, 778 F.Supp.2d 930, 932 (C.D. Ill. April 21, 2011). Here, like his Notice of Appeal, Plaintiff's Complaint (Doc. 2) is incoherent and incomprehensible, rendering the Complaint frivolous. As such, the Complaint must be dismissed.

For the foregoing reasons, Plaintiff's Motion to proceed *in forma pauperis* (Doc. 11) is **DENIED** and this case is **DISMISSED with prejudice**. All other pending motions are **DENIED AS MOOT** and the Clerk of the Court is **DIRECTED** to enter judgment accordingly.

IT IS SO ORDERED.

DATED: November 2, 2016

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge